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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR          | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-------------------------------|---------------------|------------------|
| 10/578,716  | 05/10/2006  | Wilhelmus Franciscus Verhaegh | US030441            | 3351             |
| 24737 7590 04/27/2009<br>PHILIPS INTELLECTUAL PROPERTY & STANDARDS<br>P.O. BOX 3001<br>BRIARCLIFF MANOR, NY 10510 |             |                               |                     |                  |
| EXAMINER  |             |                               |                     |                  |
| CHOKSHI, PINKAL R   |             |                               |                     |                  |
| ART UNIT  |             | PAPER NUMBER                  |                     |                  |
| 2425  |             |                               |                     |                  |
| MAIL DATE   |             | DELIVERY MODE                 |                     |                  |
| 04/27/2009  |             | PAPER                         |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/578,716

**Applicant(s)**

VERHAEGH ET AL.

**Examiner**

PINKAL CHOKSHI

**Art Unit**

2425

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425

/Pinkal Chokshi/  
Examiner, Art Unit 2425

Continuation of 11, does NOT place the application in condition for allowance because: Applicant asserts that combination of Alexander and Ismail does not disclose providing, for each of a plurality of programs, a score indicating a degree of preference of at least one user. Examiner respectfully disagrees. As mentioned in Final Office Action, Alexander discloses (col.28, lines 11-21) that the viewer provides profile information such as top favorite programs to the EPG provider. Ismail discloses (col.11, lines 20-26) that the system determines viewer preferences based on the analysis of users viewing habits, etc. Ismail further discloses (col.12, lines 61-66; col.16, lines 54-55) that the preference determination unit recommends programs by evaluating liking function for each program and choosing the program with the highest score. Furthermore, Applicant alleges that the score is provided by the program recommender and not by the viewer as in Alexander and Ismail. Examiner respectfully disagrees with this allegation. Alexander clearly discloses (col.28, lines 20-21, 30-32) that the EPG learns information (viewer's favorite programs) by analyzing users viewing habit and it does not require user's interaction.

Furthermore, for the following limitations, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant alleges that Alexander or Ismail does not teach providing, for each commercial, correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs. Examiner disagrees. Alexander discloses (col.32, lines 24-34) that the EPG uses viewer's profile information to customized advertisements related to his/her favorite programs.

Furthermore, Applicant alleges that Alexander or Ismail does not disclose a metric indicating a degree of effectiveness. Examiner disagrees. Alexander discloses (col.32, lines 35-39) that the EPG and the profile program use Viewer profile information to personalize the scheduling of telecast advertisements that are related to the television program that the viewer is watching. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG displays an advertisement for educational computer. Alexander further discloses (col.34, lines 4-8) that the EPG displays different advertisements depending upon which program the viewer is currently watching. From this example, it is clearly determined that Alexander provides targeted advertisement which depends on user's favorite program and this targeted advertisement is correlated to the program user's watching. Based on this facts, one skilled in the art can clearly determined that there is a degree of effectiveness between a program and a commercial regardless a value provided for commercial or not.